

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

TRADING PLACES  
INTERNATIONAL, LLC,

Plaintiff,

vs.

SUMMERWINDS RESORT  
SERVICES, LLC, et al.,

Defendants.

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Case No. 6:15-cv-03092-BP

**TPI'S MOTION TO FILE OUT OF TIME**

COMES NOW Trading Places International, LLC ("TPI"), by and through its counsel Lathrop & Gage LLP, and for its Motion to File Supplemental Disclosure of Expert Testimony and Accompanying Written Report Out of Time states as follows:

1. Plaintiff filed its original designation of expert witness on July 15, 2016 followed by a supplemental designation providing additional information on September 28, 2016.
2. Defendants, with leave of court, filed their expert disclosure on December 30, 2016 after deposing Plaintiff's expert and produced their expert for deposition on January 24, 2017.
3. At that deposition, TPI was able to learn the details of Defendants' expert's opinions for the first time.
4. Rather than simply criticizing Plaintiff's expert, Defendants' expert offered her own opinion on numerous topics and performed her own calculations resting on assumptions that were not fully explained until her deposition.
5. The Scheduling Order in this case is silent on expert's opinions used solely for rebuttal.

6. Plaintiff, out of an abundance of caution, asks for leave to file the rebuttal report of its expert.

7. Plaintiff's Supplemental Report was served upon counsel for Defendants within thirty (30) days from the date of the deposition of Defendants' expert.

8. This motion is not made for any improper purpose and will not delay the progress of the trial of this matter.

9. The filing of the Supplemental Report simply apprizes Defendants fully of the testimony Plaintiff's expert is expected to offer at trial to rebut the testimony of Defendants' expert.

10. While Plaintiff does not believe a supplemental deposition of its expert is necessary, it is willing to produce her for deposition regarding the rebuttal opinions contained in her Supplemental Report.

WHEREFORE Plaintiff Trading Places International, LLC prays for an order of this Court granting it leave to file its Supplemental Disclosure of Expert Witness and for such other and further relief as this Court deems just under the circumstances.

Dated: February 23, 2017

LATHROP & GAGE LLP

By: /s/ James E. Meadows

James E. Meadows (#50874)  
J. Taylor White (#67001)  
910 E. St. Louis, Suite 100  
Springfield, MO 65806  
(417) 886-2000 FAX: 886-9126  
[jmeadows@lathropgage.com](mailto:jmeadows@lathropgage.com)  
[jchristensen@lathropgage.com](mailto:jchristensen@lathropgage.com)  
[twhite@lathropgage.com](mailto:twhite@lathropgage.com)

***Attorneys for Plaintiff TPI***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a complete copy of the foregoing was electronically filed this 23<sup>rd</sup> day of February, 2017, with the Clerk of the Court using the e-filing system which sent notification of such filing to the following:

Bryan O. Wade  
Christopher Weiss  
Shelly Rosenfelder  
HUSCH BLACKWELL LLP  
901 E. St. Louis Street, Suite 1800  
Springfield, MO 65806  
***Attorneys for Defendants***

/s/ James E. Meadows

James E. Meadows